54TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 2614.

FREE HOMESTEADS ON PUBLIC LANDS.

JANUARY 25, 1897.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FLYNN, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 3656, with amendments of the Senate.]

This bill passed the House of Representatives March 16 last, but applied only to the lands in Oklahoma Territory. The Senate amended it by making it general and extending its scope in order to apply to all parts of the United States where Indian reservations had been treated for by the Government, and where, in addition to complying with the requirements of the homestead laws, the settler was also obliged to pay the Government a certain sum per acre. The bill and the title have been amended in accordance, giving it a general scope.

In addition to the above amendments, the Senate has provided that its scope shall be so enlarged as to also include such lands as have not been paid for by the Government to the Indians, but which were to be paid for by the settlers to the Government for the Indians. In other words, the Government has in recent years made two distinctly different kinds of treaties with the various Indians ceding their lands to it. In some cases the Government has treated with the Indians for their lands and agreed to pay, and has paid, so much money for certain reservations, and Congress, in ratifying these kinds of treaties, has appropriated the money for the benefit of the Indians in the same act ratifying the treaties.

In these cases the Indians were not concerned about what the conditions were entered into by the Government and its settlers. In other cases the Government has agreed to take the land from the Indians and virtually act as trustee, fixing a certain price per acre for the settler to pay, and when paid the amount being placed to the credit of the tribe formerly claiming the reservation. The last amendment of the Senate has reference to these last-described lands, and provides that the Government shall assume the obligation due the Indians and pay them for the lands and releasing the settler.

With the exception of the last amendment the bill is virtually the same as that heretofore favorably reported to the House by this committee and now on the Calendar, and attention is invited to the very able and exhaustive report by the chairman of this committee (Mr. Lacey), accompanying said bill (H. R. 3948). The amendment striking out that part of the bill which suspends the public-land laws in Greer County, late a county of Texas, but now of Oklahoma, is made because Congress has, since the passage of this bill by the House, enacted the necessary legislation for this county.

In recommending the passage of this bill as it passed the Senate, your committee is of the opinion that its passage will do but simple justice to the hardy settlers who are settled upon these various ceded

lands and who by energy, honesty, and perseverance are endeavoring at this late date to make habitable portions of our semiarid domain heretofore called the "Great American Desert." This bill is nothing more or less than a return to the homestead policy which has in the past been eulogized by all members of the various political parties. This identical bill was indorsed and its passage demanded by the convention that nominated Major McKinley, and this policy was indorsed by the late conventions of the other two political parties.

Your committee is not unmindful of the fact that those who may not favor this measure (if there are any) do so believing that the Government will lose millions of dollars if it passes. This idea is largely based on the report of the late Secretary of the Interior, whose report is fully set out in House Report No. 147, and also in Senate Report No. 964, in which it is claimed that the enactment of this bill into law means a loss to the Treasury of over $35,000,000. Fortunately for the country, for this bill, and for the poor settlers upon these lands there are those supporting this measure who have crossed the Mississippi River and know something about these lands.

In the first place, if we consider it purely from a mercenary standpoint, we have no hesitancy in saying that whether this bill becomes a law or not, the Government could never expect to obtain one-third of the amount for these lands which the Secretary's report says the Treasury would lose. Almost every acre in all these reservations affected by this bill that will ever be taken for homestead settlement has been taken, and there are millions upon millions of acres still untaken and which will always remain so. The adverse report of the Department seems to be drawn blindfolded to these facts, and the Congress and the country is told that in this case at least "all that glitters *is* gold."

It is, in the opinion of your committee, no exaggeration to say that but very few acres of the lands covered by this bill are such lands as to guarantee a crop once in five years from the natural rainfall. Millions of acres included in it can never be irrigated and are only fit for grazing purposes, and those using them for that purpose can not afford at any price to own them owing to the rate of taxation and the number of acres that are required to graze a single animal on it for one year.

Heretofore most, if not all, of the Indian tribes with which the Government treated for these lands were educated, clothed, fed, doctored, etc., by appropriations made by Congress from the Treasury and charged to all the people, East, West, North, and South; but in recent years, owing to certain new-fangled notions entertained by certain of our solons, a new plan for caring for and supporting these wards of the Government was devised, and all sections of the country, other than that in which the Indians were located, are relieved from their support. In other words, all the lands covered by this bill, with, perhaps, one or two exceptions, were public lands and not owned by the Indians, being merely reservations set aside by Executive order for the use and occupation of these various tribes.

The Indians knew they had no title, so did the Government, but commissioners were sent to negotiate with these tribes to obtain their consent to each individual Indian, in the onward march of civilization, taking an allotment for himself and family. In most of these cases the Indian who had no title on earth to any land (in the West) was given an allotment which he selected for himself or had selected for him, and all the land unallotted was purchased by the Government and opened to white settlement upon condition that the settler would pay so much per acre for the chips and whitstones left in the shape of land after it

had been culled over by several thousand allotments which always take the water courses, springs, and bottom lands.

As soon as the allotments are made and the lands opened for his less-fortunate white brother, the Government expects the Indians to be supported from the interest or the principal paid by settlers for the lands. By this method all sections of the country are relieved from supporting these Indians, and the poor settler, with scanty larder, is expected to so stint himself, his wife, and children as to be able to meet a payment to a heretofore generous Government to its pioneers and Indians alike. By this process the Indian, whose previous support was obtained from the Treasury of the nation and made a charge on all alike, is expected to be supported by the settler who has had courage enough to make an entry on the land.

We are fully aware of the fact that settlers who have taken these lands have agreed to pay for them. They would gladly perform their part of the contract were it possible for them to do so. Climatic conditions on most all these lands make it impossible. They have not appealed to Congress to be relieved of their contract until after years of trials they find that they can in many cases scarcely eke out an existence, to say nothing of accumulating enough to pay the Government.

The settlers on these lands are largely native born, are honest, intelligent, rich in energy but poor in purse, and have a right to that share of consideration, at least, as has been heretofore extended to those from every clime who have sought and obtained a "free home" in the country of their adoption. These settlers make no complaint of the various appropriations for battle ships, for Navy, for rivers and harbors, etc.

The price of one battle ship if retained would give homes on millions of acres of these lands to the settlers.

The committee is of the opinion that no measure of this importance has engaged the attention of Congress for years, believing that its passage will do more to interest the people in their own Government than any other. In times of the country's peril it is the man who owns his home who can always be relied upon to fly to his country's call. He has an interest; his fireside is in danger; he is ready to defend it, and should be encouraged. It has been aptly asked, "Who ever heard of a man fighting for a boarding house?"

Your committee have given all phases of this matter their attention and recommend that the bill, with the Senate amendments, do pass.

The report of Senator Pettigrew to the Senate in relation to these amendments is hereto attached and made part of this report.

[Senate Report No. 964, Fifty-fourth Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (H. R. 3656) providing for free homesteads on public lands in Oklahoma Territory for actual and bona fide settlers, having had the same under consideration, report it back with the following amendments:

From the title strike out the words "in Oklahoma Territory."

From line 5, section 1, strike out the words "in the Territory of Oklahoma."

At the end of line 15, section 1, add the words:

"*Provided, however,* That all sums of money so released, which if not released would belong to an Indian tribe, shall be paid to such Indian tribe by the United States."

Thus amended, your committee recommend that the bill do pass.

The effect of the first two amendments reported will be to change the act from one covering alone the surrendered Indian lands of Oklahoma Territory to an act covering the Indian reservation lands opened by treaty or agreement to public settlement in all States and Territories of the United States.

The effect of the third amendment reported will be to secure to all Indians payment for lands surrendered under agreements with the United States Government that certain compensation was to be bestowed upon them.

In seeking to change the act from one of limited scope to one of general application, your committee is actuated by a belief that its just provisions should not be confined to a circumscribed area or to a selected number of people, but should cover all of that class to whom, in its original form, it was made locally applicable.

The measure involves no new principle of legislation, but is sustained by precedents numerous in the statute books of the nation. It aims merely to bring newly acquired public domain under the beneficent provisions of the homestead law, an enactment which has in years of our past extended westward from congested population centers those energetic millions of our own and other races who required only room and a place to toil that the fruits of their labor might fall into the lap of the world. It is hardly necessary to go into details and statistics in support of the achievements of the homestead law. They have been repeatedly uttered and printed in connection with measures before this body, and they justify the wisdom of the framers of that enactment.

The contention of your committee is that in the application of the homestead law there should be no discrimination—that it should be applied to every portion of the public domain and to all the people who go out to subdue the wilderness. The argument that these lands were bought for a price from the Indians, and that it was provided that the ultimate white owners of the land should compensate the General Government for its outlay, has been given due consideration. The only possible conclusion, within lines of equity, is that the provision was an erroneous one, and that its elimination from the statutes has been already too long delayed. Our entire national domain was originally purchased from the Indians, either for a cash or commodity price, or through the cost of conquest, and much of it has been twice bought, because of its ancient occupancy by foreign nations. Yet in the parceling of the domain, under the operation of the homestead act, the proposition that the Government should exact the cost of land from its former occupants never found the form of law until it came to be applied to these recently acquired infinitesimal remnants of a governmental area that once reached westward from the Mississippi to the Pacific.

In connection with a measure similar to the one reported herewith, the Secretary of the Interior has submitted a report, and, through a tabulated statement therein embodied, exhibits the conclusion that the enactment of the bill under consideration would deprive the Government of some $35,000,000. This statement of the pecuniary benefit to come to the nation can never be fulfilled under conditions now existing and which have existed since the land was thrown upon the market. Much of the area to be disposed of lies within the semiarid region of the far West. It is not worth to the settler the price asked for it. For example, there were 9,500,000 acres released in 1889 from Indian jurisdiction in the Great Sioux Reservation of the Dakotas. Of this total only a little over 700,000 acres has been taken, for which the occupants have agreed to pay about $825,000. This leaves 8,800,000 acres undisposed of, and under the terms of the treaty with the Indians, the Government is bound to pay, at the expiration of ten years from March 2, 1889, to the Indians, one-half a dollar per acre, whether any of it is sold to settlers or not. Unsalable real estate should not be figured in as prospective cash assets; and the land not taken is practically unsalable. The 700,000 acres occupied by settlers represent all that will ever be attractive to producers. The balance is ranging grounds for herds, and is available without entry or purchase for that purpose.

The same line of reasoning will apply to the ceded lands of Oklahoma, of which there are over $15,000,000 worth entered in the tabulated statement of the Secretary of the Interior.

On the other hand, there are ceded reservation lands in Idaho, Washington, and Montana that will not be affected by the measure recommended by your committee, because of their mineral character. They will remain under the operation of the mineral land laws and will become readily salable as such. Their value must therefore be deducted from the loss estimate of the Interior Department.

Of the worthless desert land there is an area sufficient within the ceded fractions of Indian reservations enumerated in the report of the Secretary of the Interior to materially reduce the aggregate of his estimate. Land of this character can never be sold to farmers or stock growers, or to any class of producers; and for so much of it as the Government has purchased from the Indians it can not expect to be compensated.

It is the conclusion of your committee, upon the reasonable basis above outlined, that the Department's alleged loss estimate under the provisions of this bill should be reduced at least one-half, or to about $17,500,000. But your committee can not admit that this money total should be considered as lost revenue. It represents an exaction not before imposed upon agricultural producers who, through toil and the privations of extreme poverty upon the frontier, plant the foundation stones of wealth-teeming Commonwealths so firmly that they will endure as long as the rains fall and the sun endows life with the energy of its rays.

VIEWS OF MR. LACEY.

I concur in the general statements of the foregoing report.

I introduced H. R. 3948 and made, with the approval of the Committee on the Public Lands, Report No. 147. I adhere to the views therein expressed, and desire the passage of the bill, and regret that its passage should be retarded or embarrassed by including about 15,000,000 acres of land not contemplated in any of the previous propositions presented by the committee to the House.

About 15,000,000 acres of Indian reservations are excepted from the operations of H. R. 3948 by the following proviso, reported by your committee:

Provided further, That this act shall not apply to reservations where the proceeds of the sales or homestead or other entries thereof are under existing treaties required to be paid over to the Indians, or held in trust, or paid into the Treasury for their benefit.

Where the Indians under existing treaties cause their lands to be sold to settlers, the proceeds of the sale to go to the Indians or to be paid into the Treasury for their benefit, I do not think that the circumstances demand the operation of the homestead laws. In such cases the settler buys the land of the Indians, either directly or indirectly, and pays the purchase price into the Treasury for the use of the Indians.

The Government does not own the lands in such cases or, at most, only acts as the guardian of the Indians to receive the purchase price for the Indian's benefit, and there is no reason why the Government should now intervene and assume the payment of the contract by individuals for the purchase of the land. By thus enlarging the scope of the "free homes" proposition to include the 15,000,000 acres of this class I fear that the friends of "free homes" will defeat the very purpose they have in view, and have so overloaded the proposition as to invite the defeat of the entire legislation.

The measure indorsed by the various political platforms referred to in the report was the proposition pending in Congress which did not embrace either in fact or in principle the scheme of paying the debts due from settlers to the Indians themselves or in trust for them.

I think that the proviso which I have above quoted should be attached to the Senate amendment, and as thus amended the bill should pass. I believe that the passage of the bill as thus amended would be rendered much more certain.

The broadening of the scope of the bill so as to include the class to which I have referred imperils legislation which is not only just and desirable but which is urgently needed by the settlers, who have during the last few years been struggling to maintain themselves amid very adverse surroundings.

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